



## OVERVIEW OF LAWS AND REGULATIONS

### Electronic Fund Transfer Act

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#### Electronic Fund Transfer Act (Regulation E)

##### Executive Summary:

The Electronic Fund Transfer Act (EFTA), as implemented by Regulation E (12 CFR 205), provides a basic framework establishing the rights, liabilities and responsibilities of participants involved in electronic fund transfers to and from consumer asset accounts. The term “electronic fund transfer” (EFT) generally refers to a transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that instructs a financial institution to either credit or debit a consumer’s asset account. Examples of asset accounts include a consumer checking, savings, share, or money market account held by an institution and established by the consumer primarily for family, personal, or household purposes. The types of transfers covered by the Act and Regulation include those initiated through an automated teller machine (ATM), point-of-sale terminal, automated clearing-house, telephone bill-payment plan, or home banking program.

The EFTA and Regulation E prescribe a variety of rules governing EFTs including restrictions on the unsolicited issuance of ATM cards and other access devices; disclosure of terms and conditions of an EFT service; documentation of EFTs by means of terminal receipts and periodic account statements; limitations on consumer liability for unauthorized transfers; procedures for error resolution; and certain rights related to preauthorized EFTs. A recent interim rule amending Regulation E permits the electronic delivery of those disclosures and other information required to be provided in writing by the institution, as long as the consumer agrees to such delivery by electronic means. Regulation E does not affect certain types of transfers, including: (i) any transfer of funds originated by check, draft or similar paper instrument; (ii) wire transfers through Fedwire or similar wire transfer system; or (iii) any transfer of funds initiated by telephone communication between a customer and a financial institution making the transfer.

##### Business Areas Impacted:

- New Accounts
- Teller Operations
- Deposit Operations/Processing
- Marketing of Accounts
- Customer Service



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### Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Coverage</p> <p>Regulation E applies to any electronic fund transfer that authorizes a financial institution to debit or credit a consumer's account.</p> <p>Understand the terminology used, including:</p> <ol style="list-style-type: none"><li>1. Electronic fund transfer (EFT) - a transfer of funds initiated through an electronic terminal, telephone, magnetic tape or computer to instruct/authorize a financial institution to debit or credit an account. The term includes point-of-sale transfers; ATM transfers; direct deposits or withdrawals; telephone transfers; and debit card transfers.</li><li>2. Account - a demand deposit, savings, or other consumer asset account established primarily for personal, family, or household purposes.</li><li>3. Preauthorized electronic fund transfer - an EFT authorized in advance to recur at substantially regular intervals.</li><li>4. Access device - a card, code, or other means of access to a consumer's account, or any combination thereof, that may be used by the consumer to initiate electronic fund transfers.</li></ol> <p>Note that stored value cards are covered by Regulation E when the transaction accesses a consumer's account, such as when value is loaded onto the card from the consumer's deposit account through the use of an electronic terminal or personal computer.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>



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<p>Exclusions from Coverage</p> <p>The term EFT does not include:</p> <ul style="list-style-type: none"> <li>• Checks;</li> <li>• Check guarantee or authorization services;</li> <li>• Wire transfers;</li> <li>• Transfers primarily to purchase or sell regulated securities or commodities;</li> <li>• Automatic transfers by account-holding institutions;</li> <li>• Non-recurring transfers initiated by a telephone direction from the consumer to an employee of the institution; or</li> <li>• Preauthorized transfers involving institutions with total assets of \$100 million or less.</li> </ul>	Continuing	Written Procedures
<p>Policy/Procedures</p> <p>Adopt a policy for implementing EFTA and Regulation E. Ensure that comprehensive procedures are in place covering the institution's responsibilities in connection with all electronic fund transfers.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Issuance of Access Devices</p> <p>Issue an access device only upon an oral or written request or application, or as a substitute for or renewal of an existing accepted access device.</p> <p>An unsolicited access devices may be distributed if it is: (1) not validated, (2) accompanied by a clear explanation that the device is not validated and how the consumer may dispose of it if validation is not desired, (3) accompanied by appropriate initial disclosures of the consumer's rights and liabilities if validated; and (4) validated only upon the consumer's oral or written request after verifying the consumer's identity.</p>	Continuing	<p>Request or application (oral or written)</p> <p>Explanation concerning validation of access device</p> <p>Initial Disclosures</p>



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<p>Liability for Unauthorized Transfers</p> <p>Adhere to limitations on consumer liability for unauthorized EFTs.</p> <ul style="list-style-type: none"><li>Generally, consumers providing notice within two business days after learning of the loss or theft of an access device are liable for the lesser of \$50 or the amount of unauthorized transfers occurring before the notice. If the consumer fails to provide notice within the two business days, liability cannot exceed \$500.</li><li>Unauthorized EFTs appearing on periodic statements must be reported within 60 days of transmittal of the statement to avoid liability for subsequent transfers. Liability for failing to provide such notice is unlimited after the 60 day period. The institution must establish that the unauthorized transfer would not have occurred had the consumer notified the institution within the 60 day period.</li></ul>	<p>Continuing</p> <p>Consumer must provide notice within 2 business days of learning of the loss or theft of access device</p> <p>Consumers must report unauthorized EFTs appearing on a periodic statement within 60 days of its transmittal. (Extension of time may be granted if delay is due to extenuating circumstances)</p>	<p>Consumer notification (may be in person, by telephone or in writing)</p>
<p>Form of Disclosures</p> <p>Disclosures required under Regulation E must be clear and readily understandable in writing and in a form that the consumer may keep.</p> <p>The FRB published an interim rule effective March 25, 1998 amending Regulation E to permit institutions to deliver disclosures electronically as long as the consumer agrees to such delivery and subject to certain conditions. The electronic delivery must be accomplished in a manner allowing visual text to be displayed on equipment such as a modem-equipped computer. Timing, format, and other requirements of the EFTA and Regulation E continue to apply.</p>	<p>Continuing</p>	<p>All disclosure forms</p>



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<p>Content of Initial Disclosures</p> <p>The following items must be included in the initial disclosures:</p> <ol style="list-style-type: none"> <li>1. Statement of consumer's liability;</li> <li>2. Telephone number and address of person to notify about unauthorized EFTs;</li> <li>3. Business days;</li> <li>4. Types of EFTs, including limitations on frequency and dollar amount of transfers;</li> <li>5. Fees;</li> <li>6. Documentation - summary of consumer's right to receipts, periodic statements, and notices regarding preauthorized transfers;</li> <li>7. Stop payment procedures;</li> <li>8. Liability of institution for failure to make or stop certain transfers;</li> <li>9. Confidentiality - when information on an account may be provided to third parties; and</li> <li>10. Error resolution notice.</li> </ol>	<p>Initial disclosures must be made at the time a consumer contracts for an EFT service or before the first EFT is made involving the consumer's account</p>	<p>Initial Disclosure Form (See Appendix A to Regulation E)</p>
<p>Change in Terms</p> <p>Provide a written notice to consumer if a change in EFT terms or conditions would result in (1) increased fees or charges, (2) increased liability for the consumer, (3) fewer types of EFTs, or (4) stricter limitations on the frequency or dollar amount of transfers.</p> <p>Note: Prior notice need not be given if an immediate change is necessary for security reasons. If the change becomes permanent and disclosure would not jeopardize security, provide notice on or with the next periodic statement or as a separate</p>	<p>Mail or deliver at least 21 days before the effective date of the change.</p> <p>Provide notice in next periodic statement, or separately within 30 days after the change becomes permanent (unless disclosure jeopardizes security).</p>	<p>Written notification</p>



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form.	jeopardizes security).	
Error Resolution Notice  Inform account holder of error resolution procedures.	Annually or with each periodic statement.	Notice conforming to 205.7(a)(10) or 205.8(b) (See Appendix A to Regulation E)
Receipts at Electronic Terminals  Provide receipts for EFTs conducted at an electronic terminal that include: (1) amount of transfer, (2) date, (3) type of transfer and account accessed, (4) number or code identifying the account, (5) terminal location, and (6) identity of any third party. Note: The amount of the transfer may include a transaction fee if disclosed on the receipt and displayed on or at the terminal.	At the time an EFT is initiated at an electronic terminal.	Receipt
Periodic Statements  Document EFTs in periodic statement that includes:  1. Transaction information (amount, date, and type of transfer; terminal location, if applicable; and name of any third party to or from whom funds were transferred);  2. Account number;  3. Fees;  4. Account balances;  5. Address and telephone number for inquiries; and  6. Telephone number for preauthorized transfers.	Provide for each monthly cycle in which an EFT has occurred.  Provide at least quarterly if no EFT has occurred or if access is limited to receipt of preauthorized transfers.	Periodic statement
Preauthorized Transfers to Account  For preauthorized EFTs to a consumer's account occurring at least once every 60 days, notify con-	Notify within 2 business days of transfer or scheduled date.	Written or oral notice



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sumer or provide telephone number for consumer verification of transfer, unless positive notice by payor has been provided.	Credit amount of transfer as of date funds received.	
<p>Preauthorized Transfers from Account</p> <p>Preauthorized transfers from a consumer account can only occur with prior written authorization of consumer.</p> <p>Allow consumers to stop payment of a preauthorized transfer from their account upon oral or written notification to institution (written confirmation may be required when stop payment is orally initiated).</p>	<p>Continuing</p> <p>Notification must be at least 3 business days before transfer date. Institution may require written confirmation of stop-payment order within 14 days of oral notification.</p>	<p>Written authorization</p> <p>Written or oral notice (written confirmation within 14 days after oral notice, if consumer is advised at time)</p>
<p>Error Resolution Procedures</p> <ol style="list-style-type: none"> <li>1. Provide an error resolution procedure that permits oral or written notice by consumer within 60 days of periodic statement. Note the types of transfers or inquiries covered and those not covered. (Section 205.11(a))</li> <li>2. Investigate claimed error and report conclusion within 10 business days or provide provisional credit to account and investigate within 45 days. (Note: Section 205.11(c)(3) provides that these time periods may be extended to 20 business days and 90 days respectively in limited circumstances)</li> <li>3. Correct errors and inform consumer of correction or follow prescribed procedures if a determination is made that no error occurred or a different error occurred following the investigation. See Section 205.11(c) and (d))</li> </ol>	<p>Continuing</p> <p>Institution may require written confirmation of error within 10 days of oral notice.</p> <p>10 or 45 day investigation period (extended time periods allowed in limited circumstances)</p> <p>Provisionally credit account within 10 business days and inform consumer within 2 business days of amount and date of provisional credit.</p> <p>Correct errors within one business day after discovery.</p>	<p>Periodic Statement</p> <p>Institution may require written confirmation of oral notice of error.</p> <p>The institution will review its own records in order to determine if error exists.</p> <p>Inform consumer within 2 business days of amount and date of provisional credit.</p> <p>Notice of findings provided to customer</p> <p>Written explanation of findings where no error found</p>



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	Report results to consumer within 3 business days of completing the investigation	Notify consumer when debiting a provisionally credited amount if a determination is made that no error occurred.
<b>Training/Updating</b>  Provide training to all affected employees and update policies, procedures, and operational manuals as necessary to reflect regulatory changes.	Continuing	Training materials  Updated policies, procedures and operational manuals
<b>Monitoring/Audit</b>  Monitor compliance with the EFTA and Regulation E, including adherence to consumer liability limitations, disclosure requirements, preauthorized transfer rules, and error resolution procedures.  An internal or external audit should be conducted at least annually to assess overall compliance with the Act and Regulation E.	Continuing	Internal Review Procedures/Reports  Audit Procedures/Reports
<b>Record Retention</b>  Maintain evidence of compliance for not less than two years from the date disclosures are required to be made or action taken.	Retain records for not less than 2 years (or until final disposition of any investigation, action or proceeding)	All affected documentation  Record Retention Guidelines